

SUPREME COURT OF TEXAS

Peeler v. Hughes & Luce

909 S.W.2d 494 (Tex. 1995) · No. 94-0041 · Decided October 27, 1995

SUMMARY

The Supreme Court of Texas held that a person convicted of a crime may not pursue legal-malpractice or Texas DTPA claims arising from the conviction unless the conviction has been overturned through direct appeal, post-conviction relief, or otherwise. The court concluded that, as a matter of public policy, the plaintiff’s illegal conduct remains the sole proximate or producing cause of the indictment and conviction until exoneration. The court affirmed summary judgment for the attorneys and law firm, while declining to address contract claims not properly raised on appeal.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Enoch; Justice Hecht; Justice Cornyn; Justice Owen
JURISDICTION	Texas
DECIDED	October 27, 1995
DOCKET	94-0041
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from summary judgment for the criminal-defense attorney and law firm in the plaintiff's legal-malpractice and Texas Deceptive Trade Practices-Consumer Protection Act claims.
STANDARD OF REVIEW	Summary judgment is reviewed based on the summary-judgment record; where underlying facts are disputed, the nonmovant's summary-judgment proof is accepted as true for purposes of review.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Texas
PARTIES	Carol C. Peeler v. Hughes & Luce, Darrell C. Jordan

TOPICS

- professional negligence
- consumer protection
- post-conviction relief
- constitutional law
- contracts

PRACTICE AREAS

- legal malpractice
- criminal defense
- consumer protection
- constitutional law
- civil procedure

QUESTIONS PRESENTED

1. Whether a person convicted of a crime may maintain a legal-malpractice claim arising from the conviction without first obtaining exoneration.
2. Whether Peeler's lack of exoneration made her own criminal conduct the sole proximate or producing cause of the indictment, conviction, and resulting injuries as a matter of law.
3. Whether the exoneration requirement violated the Texas Constitution's open-courts, equal-protection, or outlawry provisions.
4. Whether the court should decide Peeler's breach-of-contract and breach-of-warranty claims.

HOLDINGS

1. A plaintiff convicted of a criminal offense may overcome the sole-proximate-cause bar to legal-malpractice claims connected to that conviction only after being exonerated on direct appeal, through post-conviction relief, or otherwise. The same causation principle bars the DTPA claims at issue.
2. The alleged lost opportunity to accept transactional immunity did not eliminate the exoneration requirement because Peeler admitted committing the relevant criminal acts and remained convicted.
3. The exoneration requirement did not violate the Texas Constitution's open-courts provision because Peeler did not challenge a legislative restriction on a cognizable common-law cause of action.
4. The exoneration requirement did not violate the equal-protection provision of the Texas Constitution because it was rationally related to the legitimate state interest in preventing criminals from profiting from their crimes or transferring punishment to others.
5. The exoneration requirement did not violate the Texas Constitution's outlawry provision because it neither banished Peeler from the state nor denied her all legal rights.

KEY QUOTATIONS

“Consequently, without first establishing that she has been exonerated by direct appeal, post-conviction relief, or otherwise, Peeler cannot sue her attorney.” (494)

“We therefore hold that, as a matter of law, it is the illegal conduct rather than the negligence of a convict's counsel that is the cause in fact of any injuries flowing from the conviction, unless the conviction has been overturned.” (498)

“Since Peeler has not been exonerated, her illegal acts remain the sole proximate and producing causes of her indictment and conviction as a matter of law.” (498)

FACTUAL BACKGROUND

Carol Peeler, an officer of Hillcrest Equities and Hillcrest Securities, was investigated and later indicted on federal tax-related charges. She retained Darrell Jordan and Hughes & Luce, paid a substantial retainer, and ultimately pleaded guilty to aiding and assisting the filing of a false and fraudulent partnership income-tax return. Peeler later alleged that Jordan had failed to communicate a federal prosecutor's offer of transactional

immunity, and she sought damages for legal malpractice and DTPA violations despite remaining convicted and not having obtained exoneration.

PROCEDURAL HISTORY

Peeler sued Jordan and Hughes & Luce, alleging that Jordan failed to communicate a federal prosecutor's offer of transactional immunity before she pleaded guilty. The trial court granted summary judgment for defendants on all claims, including negligence and DTPA claims, based in part on Peeler's failure to withdraw her plea or obtain post-conviction relief. The court of appeals affirmed, and the Supreme Court of Texas affirmed the court of appeals.

DISPOSITION

affirmed

CASES CITED

- Nixon v. Mr. Property Management Co., 690 S.W.2d 546, 548-549 (Tex. 1985)
- Cosgrove v. Grimes, 774 S.W.2d 662, 665 (Tex. 1989)
- Tijerina v. Wennermark, 700 S.W.2d 342, 344 (Tex. App.—San Antonio 1985, no writ)
- Wright v. Lewis, 777 S.W.2d 520, 522 (Tex. App.—Corpus Christi 1989, writ denied)
- Garcia v. Ray, 556 S.W.2d 870, 872 (Tex. Civ. App.—Corpus Christi 1977, writ dismissed)
- Walker v. Kruse, 484 F.2d 802, 804 (7th Cir. 1973)
- Orr v. Black & Furci, P.A., 876 F. Supp. 1270, 1276 (M.D. Fla. 1995)
- Shaw v. Alaska, 861 P.2d 566, 571-572 (Alaska 1993)
- Weiner v. Mitchell, Silberberg & Knupp, 114 Cal. App. 3d 39, 170 Cal. Rptr. 533, 538 (1981)
- Glenn v. Aiken, 409 Mass. 699, 569 N.E.2d 783, 788 (1991)
- Morgano v. Smith, 110 Nev. 1025, 879 P.2d 735, 737-738 (1994)
- Carmel v. Lunney, 70 N.Y.2d 169, 518 N.Y.S.2d 605, 607, 511 N.E.2d 1126, 1128 (1987)
- Bailey v. Tucker, 533 Pa. 237, 621 A.2d 108, 114-115 (1993)
- Stevens v. Bispham, 316 Or. 221, 851 P.2d 556, 566 (1993)
- State ex rel. O'Blennis v. Adolf, 691 S.W.2d 498, 503-504 (Mo. Ct. App. 1985)
- In re Estate of Laspy, 409 S.W.2d 725 (Mo. Ct. App. 1966)
- Krahm v. Kinney, 43 Ohio St. 3d 103, 105-106, 538 N.E.2d 1058, 1061 (1989)
- Gebhardt v. O'Rourke, 444 Mich. 535, 510 N.W.2d 900, 908 (1994)
- Moreno v. Sterling Drug, Inc., 787 S.W.2d 348, 355-356 (Tex. 1990)
- McGinnis v. Royster, 410 U.S. 263, 270 (1973)
- Spring Branch Independent School District v. Stamos, 695 S.W.2d 556, 559 (Tex. 1985)
- Simon & Schuster, Inc. v. Members of New York State Crime Victims Board, 502 U.S. 105, 118-120 (1991)
- Remington Arms Co. v. Caldwell, 850 S.W.2d 167, 171-172 (Tex. 1993)

- *Argersinger v. Hamlin*, 407 U.S. 25, 37 (1972)
- *Gideon v. Wainwright*, *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963)

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